IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR. JUSTICE J.CHELAMESWAR
And
THE HON'BLE MR. JUSTICE D.APPA RAO

WRIT PETITION NO. 23911 OF 2006

Between:

M/s. Siddi Vinayaka Raw and Boiled Rice Mill,
Rep. by its Managing Partner,
Edala Suryanarayana.

Petitioner

AND

The Commercial Tax Officer,
Peddapuram, East Godavari District another

Respondents

Dated: 17th November, 2006

ORAL ORDER:
(Per the Hon'ble Sri Justice J.Chelameswar)

This writ petition is filed with the following prayer:

> "…For the reasons stated in the accompanying affidavit, the petitioner herein prays that this Hon'ble Court may be pleased to issue a writ or order or direction more particularly one in the nature of writ of

Mandamus declaring the action of the 2nd respondent in levyings the CST Tax @ 8% instead of 4% as per G.O. Ms. No. 133 C.A.F & C, Department dated 14.09.2005 in his demand ntoice Rc. No. KDA/02/3/1324 dated 30.08.2006, though the petitioner appraised the relaxation of CST Tax in G.O. Ms. No. 133 dated 14.09.2005 through his representation dated 13.09.2006, as illegal, arbitrary, erroneous, without application of mind and consequently set aside the demand notice in Rc. No.KDA/02/3/1324 dated 30.08.2006 issued by the 2nd respondent and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case…"

The petitioner is a partnership firm running a rice mill and is a registered dealer under both Andhra Pradesh General Sales Tax Act, 1957 and Central Sales Tax Act. The second respondent issued proceedings under Sec. 25 of the Revenue Recovery Act, which is in the nature of demand prior to attachment, for an amount of Rs.13,73,588/-, under various enactments, the relevant portion of which reads as follows:

Year	APGST	CST	RDC
1997-1998	26,943	------	55,063
1998-1999	1,13,837	34,995	98,036
1999-2000	88,857	39,566	----
2001-2002	1,83,881	-----	9,00,427
2002-2003	50,000	5,08,273	

3,20,062

Total Rs. 4,63,518 5,82,834 13,73,588

Grand Total Rs.24,19,940.00

Insofar as the Central Sales Tax is concerned, the tax was assessed at 8% on the turnover representing inter-state sales, when such sales are affected without issuance of Form 'C' declaration

The Government of Andhra Pradesh issued G.O. Ms. No. 133 Consumer Affairs, Food and Civil Supplies (C.S.I.-1) Department dated 14.09.2005, wherein the Government has decided to waive the requirement of production of Form 'C' Declaration to claim the benefit of lower rate of tax for the period ending 31.3.2005.

The petitioner therefore, made a representation dated 13.9.2006 to the respondents claiming that he is liable to be re-determined in the light of the above mentioned G.O. Notwithstanding such a claim, the petitioner complains that the respondents are proceeding to recover the entire amount of tax, with the ignorance of the above mentioned G.O. Hence, the present writ petition.

Heard the learned Government Pleader.

In the circumstances we are of the opinion that the matter can be disposed of by directing the respondents to consider the representation dated 13.09.2006, in the light of the above mentioned G.O. and pass appropriate orders forthwith, preferably within a period of three weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No order as to costs.

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J.Chelameswar, J.

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D.Appa Rao, J.

November 17, 2006
MAS.